

Remarks

Applicant gratefully acknowledges the allowance of claims 1-9, 11, 14, 24-29, 31, and 34. Claims 1-9, 11, 14, 15 17, 21-29, 31, and 34 remain in this application. Claims 16, 17, and 19 are canceled in this amendment. Claims 10, 12, 13, 18, 20, 30, 32, and 33 have been previously canceled. Claim 15 is amended to state the ready-to-eat cereal comprises a cereal grain and a nutritionally significant amount of choline in the form of lecithin, wherein said nutritionally significant amount of choline is an amount supplying at least 5% of the AI of choline per serving of the composite. Support for this amendment can be found, *inter alia*, in canceled claim 16. Claim 17 is amended to more fully define the cereal grain of the present invention.

In the Notice of Allowance mailed July 20, 2006, it was stated that claims 15-17, 19, and 21-23 were canceled by Examiner's Amendment. Applicant is presenting the claims previously canceled by Examiner's Amendment for reexamination. Further, Applicant is arguing the patentability of these claims based upon the Office Action dated January 17, 2006.

From the Office Action dated January 17, 2006, composition claims 15-17, 19, and 21-23 were rejected under 35 USC §103(a) as being unpatentable over Dutilh (US 4,608,267), that composition claim 15 is rejected under 35 USC §103(a) as being unpatentable over Lu, and that composition claims 15, 17, 20, 21, and 23 were rejected under 35 USC §103(a) as being unpatentable over Wullschleger et al. (US 5,227,248).

Rejection Under 35 USC §103(a)

Claims 15-17, 19, and 21-23 are rejected under 35 USC §103(a) as being unpatentable over Dutilh (US 4,608,267).

As stated in the Office Action, Dutilh discloses a process of making a choline-fortified cereal by combining wheat bran and honey and extruding at 150°C. (col. 6, lines 47-55). In this Example 3, wheat bran and honey are thoroughly mixed with lecithin and the mixture was extruded at 150°C and the extruded material cut into bits that cold be eaten as breakfast cereal with milk. The only cereal grain employed by Dutilh for making a breakfast cereal is wheat bran. The term "bran" is defined as the outer coating of many grains. Bran, such as wheat bran and oat bran, is high in insoluble fiber, which also makes it an important component as roughage in the diet. This high insoluble fiber content also gives a physical structural integrity to the

Ditilh breakfast cereal. Present claim 15, as amended, does not teach wheat or oat as a cereal grains. Further, the cereal grains of present claim 15 are not bran type grains.

Example II of the present invention is similar to Example 3 of Dutilh, with the exception that Dutilh uses wheat bran and the present invention uses corn cones, a fine corn meal. In Example II, unacceptable choline fortified, extruded pellets are obtained. More specifically, the choline fortified, corn extruded pellets exiting the extruder lack elasticity, which causes the pellets to shred at the flaking rolls, thereby making it difficult to produce flakes. The resulting flakes appear raw in color and do not toast. With respect to flavor, the flakes impart an off-flavor or lecithin flavor and are very dry tasting. The texture of the flakes is undesirable. Particularly, the flakes are too tender and demonstrate a poor bowl life.

This comparison of Example 3 of Dilith and Example II of the present invention demonstrates that the wheat bran of Dilith cannot be replaced with corn cones to obtain an acceptable product. To repeat Dilith's Example 3 using corn cones gives the product of Example II in the present invention, and this product is unacceptable for the above reasons. Reconsideration and withdrawal of this ground of rejection is respectfully requested.

Composition claim 15 is rejected under 35 USC §103(a) as being unpatentable over CN 1,271,539 A (Lu et al.).

It is noted that claim 16 which depends from claim 15 is not rejected by Lu et al. Lu et al. do not teach the nutritional significant amount of at least 5% of the AI of choline per serving to the composition. The teachings of claim 16 are incorporated into claim 15. Reconsideration and withdrawal of this ground of rejection is respectfully requested.

Composition claims 15, 17, 20, 21, and 23 are rejected under 35 USC §103(a) as being unpatentable over Wullschleger et al. (US 5,227,248).

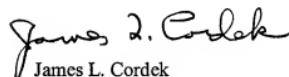
It is noted that claim 16 which depends from claim 15 is not rejected by Wullschleger. Wullschleger does not teach the nutritional significant amount of at least 5% of the AI of choline per serving to the composition. The teachings of claim 16 are incorporated into claim 15. Reconsideration and withdrawal of this ground of rejection is respectfully requested.

For the foregoing reasons, it is submitted that the present claims are in condition for allowance. The foregoing remarks are believed to be a full and complete response to the outstanding office action. Therefore favorable reconsideration and allowance are respectfully requested. If for any reason the Examiner believes a telephone conference would expedite the prosecution of this application, it is respectfully requested that he call Applicant's representative at 314.982.2409.

If any additional fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 50-0421.

Respectfully submitted,
SOLAE, LLC

Date: October 10, 2006


James L. Cordek
Registration No. 31,807

PO Box 88940
St. Louis, MO 63188
314.659.3218